

Name MARIO, WILLIAMS J-98382
 Address P.O BOX 7500 CRESENT CITY, CA
95532 P.B.S.P 117-low MF

CDC or ID Number J-98382

FILED
E-filing MAR 28 2008

RICHARD W. WIEKING
 CLERK, U.S. DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

CALIFORNIA SUPREME COURT

300 S. Spring Street Floor 2 Los Angeles, ca
 90013-1233 (Court)

PETITION FOR WRIT OF HABEAS CORPUS

No. 07-80213

(To be supplied by the Clerk of the Court)

RECEIVED

MARIO, WILLIAMS

Petitioner

vs.

ROBERT, A, HOREL WARDEN

Respondent

INSTRUCTIONS—READ CAREFULLY

MAR 28 2008

- If you are challenging an order of commitment or a criminal conviction and are filing this petition in the Superior Court, you should file it in the county that made the order.
- If you are challenging the conditions of your confinement and are filing this petition in the Superior Court, you should file it in the county in which you are confined.
- Read the entire form *before* answering any questions.
- This petition must be clearly handwritten in ink or typed. You should exercise care to make sure all answers are true and correct. Because the petition includes a verification, the making of a statement that you know is false may result in a conviction for perjury.
- Answer all applicable questions in the proper spaces. If you need additional space, add an extra page and indicate that your answer is "continued on additional page."
- If you are filing this petition in the Superior Court, you need file only the original unless local rules require additional copies. Many courts require more copies.
- If you are filing this petition in the Court of Appeal, file the original and four copies of the petition and, if separately bound, one copy of any supporting documents.
- If you are filing this petition in the California Supreme Court, file the original and ten copies of the petition and, if separately bound, two copies of any supporting documents.
- Notify the Clerk of the Court in writing if you change your address after filing your petition.
- In most cases, the law requires service of a copy of the petition on the district attorney, city attorney, or city prosecutor. See Penal Code section 1475 and Government Code section 72193. You may serve the copy by mail.

Approved by the Judicial Council of California for use under Rule 60 of the California Rules of Court [as amended effective January 1, 2005]. Subsequent amendments to Rule 60 may change the number of copies to be furnished to the Supreme Court and Court of Appeal.

This petition concerns:

- ☒ A conviction ☐ Parole
- ☐ A sentence ☐ Credits
- ☐ Jail or prison conditions ☐ Prison discipline
- ☐ Other (specify): _____

1. Your name: MARIO WILLIAMS
2. Where are you incarcerated? PELICAN BAY STATE PRISON
3. Why are you in custody? ☒ Criminal Conviction ☐ Civil Commitment

Answer subdivisions a. through i. to the best of your ability.

- a. State reason for civil commitment or, if criminal conviction, state nature of offense and enhancements (for example, "robbery with use of a deadly weapon").

CNT 1 HS SEC 11352 (A) SELL TRANSPRT CONTRL SUBSTANCE
ENHANCEMENTS 11370.2 (A) HS 667.5(B) PC 667.5(B) PC 667.5(B) PC

- b. Penal or other code sections: _____
- c. Name and location of sentencing or committing court: SAN FERNANDO LOS ANGELES, NORTH VALLY
DISTRICT SUPERIOR COURT
- d. Case number: PA050223
- e. Date convicted or committed: 6-22-05
- f. Date sentenced: 6-22-05
- g. Length of sentence: 9 Years
- h. When do you expect to be released? 7-25-09
- i. Were you represented by counsel in the trial court? ☒ Yes. ☐ No. If yes, state the attorney's name and address:
M. LA VALLY BAR PANEL ATTY 205 S. BROADWAY, SUITE 902 LOS ANGELES, CA 90012

4. What was the LAST plea you entered? (check one)

☒ Not guilty ☐ Guilty ☐ Nolo Contendere ☐ Other: _____

5. If you pleaded not guilty, what kind of trial did you have?

☐ Jury ☒ Judge without a jury ☐ Submitted on transcript ☐ Awaiting trial

8. Did you appeal from the conviction, sentence, or commitment? ☒ Yes. ☐ No. If yes, give the following information:

a. Name of court ("Court of Appeal" or "Appellate Dept. of Superior Court"):

COURT OF APPEALS SECOND APPELLATE DIST DIV- 7

b. Result DENIED

c. Date of decision: 5-31-07

d. Case number or citation of opinion, if known: PA050223

e. Issues raised: (1) INEFFECTIVE ASSISTANCE OF COUNSEL

(2) PROSECUTION MISCONDUCT

(3) INSUFFICIENT EVIDENCE

f. Were you represented by counsel on appeal? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

9. Did you seek review in the California Supreme Court? ☐ Yes ☒ No. If yes, give the following information:

a. Result b. Date of decision:

c. Case number or citation of opinion, if known:

d. Issues raised: (1)

(2)

(3)

10. If your petition makes a claim regarding your conviction, sentence, or commitment that you or your attorney did not make on appeal, explain why the claim was not made on appeal:

INEFFECTIVE ASSISTANCE OF APPEALS ATTORNEY INSIDE THE RECORD AND OUTSIDE
THE RECORD.

11. Administrative Review:

a. If your petition concerns conditions of confinement or other claims for which there are administrative remedies, failure to exhaust administrative remedies may result in the denial of your petition, even if it is otherwise meritorious. (See *In re Muszalski* (1975) 52 Cal.App.3d 500 [125 Cal.Rptr. 286].) Explain what administrative review you sought or explain why you did not seek such review:

b. Did you seek the highest level of administrative review available? ☐ Yes. ☐ No.

Attach documents that show you have exhausted your administrative remedies.

12. Other than direct appeal, have you filed any other petitions, applications, or motions with respect to this conviction, commitment, or issue in any court? ☒ Yes. If yes, continue with number 13. ☐ No. If no, skip to number 15.

13. a. (1) Name of court: SUPERIOR COURT OF THE STATE OF CALIFORNIA COUNTY LOS ANGELES
 (2) Nature of proceeding (for example, "habeas corpus petition"): WRIT HABEAS CORPUS
 (3) Issues raised: (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL & APPEALS ATTY.
 (b) INSUFFICIENT EVIDENCE TO SUSTAIN A CONVICTION(C) PROSECUTION MISCO
 (4) Result (Attach order or explain why unavailable): DENIED
 (5) Date of decision: 4-27-07
- b. (1) Name of court: COURT OF APPEALS OF THE STATE OF CALIFORNIA SECOND APPELLATE
 (2) Nature of proceeding: WRIT HABEAS CORPUS
 (3) Issues raised: (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL & APPEALS ATTY.
 (b) INSUFFICIENT EVIDENCE TO SUSTAIN A CONVICTION (C) PROSECUTION MISCO
 (4) Result (Attach order or explain why unavailable): DENIED
 (5) Date of decision: 5-31-07

c. For additional prior petitions, applications, or motions, provide the same information on a separate page.

14. If any of the courts listed in number 13 held a hearing, state name of court, date of hearing, nature of hearing, and result:
SUPERIOR COURT OF CALIFORNIA LA COUNTY HEARING DATE 3-21-07 PETITION DENIED Writ Habeas
SECOND APPELLATE DISTRICT DIVISION SEVEN STATE OF CALIFORNIA PETITION DENIED Writ Habeas
DATE 5-31-07
15. Explain any delay in the discovery of the claimed grounds for relief and in raising the claims in this petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.)

16. Are you presently represented by counsel? ☐ Yes. ☒ No. If yes, state the attorney's name and address, if known:

17. Do you have any petition, appeal, or other matter pending in any court? ☐ Yes. ☒ No. If yes, explain:

18. If this petition might lawfully have been made to a lower court, state the circumstances justifying an application to this court:

I, the undersigned, say: I am the petitioner in this action. I declare under penalty of perjury under the laws of the State of California that foregoing allegations and statements are true and correct, except as to matters that are stated on my information and belief, and as to those matters, I believe them to be true.

Date: 6/19/07

Maris Williams
 (SIGNATURE OF PETITIONER)

6. GROUNDS FOR RELIEF

Ground 1: State briefly the ground on which you base your claim for relief. For example, "the trial court imposed an illegal enhancement." (if you have additional grounds for relief, use a separate page for each ground. State ground 2 on page four. For additional grounds, make copies of page four and number the additional grounds in order.)

Petitioner was denied effective assistance of counsel.

a. Supporting facts:

Tell your story briefly without citing cases or law. If you are challenging the legality of your conviction, describe the facts upon which your conviction is based. If necessary, attach additional pages. CAUTION: You must state facts, not conclusions. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do and how that affected your trial. Failure to allege sufficient facts will result in the denial of your petition. (See *In re Swain* (1949) 34 Cal.2d 300, 304.) A rule of thumb to follow is: who did exactly what to violate your rights at what time (when) or place (where). (If available, attach declarations, relevant records, transcripts, or other documents supporting your claim.)

(Counsel failed to prepare an adequate defence.) Before trial, Petitioner asked counsel if he was prepared, and what was his defence strategy. Counsel stated that he, and co-defendant's counsel, were going to present an argument against the witness, BIANCA, that it was she that gave the money to co-defendant VALUENZUELA, and that she made the transaction. This issue, involving BIANCA, was never argued during the course of the trial, nor did the issue, of BIANCA pertain to petitioner. The court recognized a CRAWFORD-V- WASHINGTON(2004) U.S. 124 S.Ct.1354, limiting Ms. Ortiz's testimony to the co-defendant VALENZUELA'S case. Petitioner's counsel rested without petitioner's testimony, or calling any witnesses. Counsel did not function as promised, nor did he perform to dutiful & lawful obligations, and deprived defendant of a right to effective assistance of counsel simply by failing to render adequate legal assistance.

Counsel failed to obtain PITCHESS material prior to commencement of suppression hearing.

Thus depriving petition an opportunity to call witnesses for purposes of impeachment con't

b. Supporting cases, rules, or other authority (optional):

(Briefly discuss, or list by name and citation, the cases or other authorities that you think are relevant to your claim. If necessary, attach an extra page.)

U.S Const Amend 6. Adams v. Balkom F.2nd 734 1982. Strickland v. Washington supra

466 u.s at p. 691-692 (80 Led 2d at p. 695 696. People v. Ledesma, supra 43 cal 3d

at p. 271-218. People v. Vest (1974) , 43 cal App. 3d p.728 736. In re Williams

supra 1 cal. 3d at p. 175. In re Saunders (1970) 2nd cal. 3rd 1033, 1042.

SUPPORTING FACTS con't from 'three of six'.

1 and to challenge credibiliity of prosecution witnesses.

2 When petitioner requested PITCHESS Motion, counsel denied petitioner's
3 request and stated that petitioner's co-defendant's counsel had everything
4 ready to proceed. THIS incident alone, portrays the conduct & action suffered
5 by the petitioner through out the entire trial. Additionally, during the course
6 of the trial, when the District Attorney had discovered untruthfulness of a
7 prosecutuions's witness, Officer RUBACALVA, counsel failed to oject or motion
8 to the court to strike this witnesses testimony, which was critical against
9 petitioner defense. In all counsel relied upon co-defends Attorney for his
10 defence & Investigation.

OMISSIONS & Arguments

11
12 (1) Counsel failed to attack the credibility of the prosecutions witnesses
13 failed to challenge competency of witness tactical matter. peopleV. Ledesma
14 cal 3rd 171.

15 (2) Counsel failed to subpoena the criminalist for cross-examination regarding
16 Validity of testing process, what or who validitated the data showing presence
17 of cocaine. see people v. Kelly Frye (1976) 17 cal 3rd 24, 30, 130, 3 prouns
18 Kelly Rule. Testimony must be given by properly qualified expert. See expert
19 Testimony cal expert witness guide 2nd ed cal led (1991) cal criminal pro
20 31.31. The parties who stipulated are not qualified experts . With out
21 an experts opinion & Testimony to understand the evidence or to determine
22 a fact in issue, or assist the trier of fact, the evidence is insufficient.
23 See: people v. MARVIN LEE ADAMS 220 cal app 3rd 680.

24 (3) Counsel failed to adequately investigate the sufficiency of evidence,
25 the nature of cocaine, nor was there any pretrial investigation, by stipulating
26 that the evidence was cocaine which was only investigated by the L.A.P.D.
27 criminalist whom counsel failed to supeona for cross- examination, con't

②

Con't from 'three of six

1 regarding authenticity of the report. Upon mentioning this to counsel
2 petitioner ask counsel were the court or him going to supeona this criminalist,
3 counsel stated "Idont know, they're suppose too. This depriving petitioner
4 effective assistance, and a fair trial.
5 counsel failed to conduct an adequate pretrial investigation. In fact,
6 counsel can not provide a single document from this criminalist who works with
7 the L.A.P.D TO indicate he undertook any investigation at all.
8 SEE, Inre WILLIAMS supra 1 cal 3rd at p. 175.

9 A criminal Defense Attorney have a duty to investigate carefully all defense
10 of fact and law that may be available to the defendant.

11 (4) Counsel failed to prepare a line of question that would have given counsel
12 a opportunity to expose a defect in the criminalist lab report, which again
13 deprive petitioner effetive assistance, and a fair trial.

14 In addition to counsels omission, counsel ~~failed~~ ^{Failed} to object to the criminalist
15 report. Admission of laboratory report without criminalist testimony violates
16 Due process, right to confrontation sixth amendment. Counsels stipulation with
17 prosecution at this critical stage in the trial proceeding, failure to subject
18 the prosecutions case to meaningful adversarial testing is denial of the sixth
19 Amendment right which makes the adversary process presumptively unreliable.
20 SEE . Harrison p. chonic 80 l.ed 2nd p.657.

21 (5) Counsel, during trial proceeding's failed to impeach any of the prosecution's
22 witnesses whose statements were inconsistent.

23 (6) Counsel failed to object to the addmission of the criminalist report which
24 unconstitutionally relieved the prosecution of the burden of proof on an essential
25 element in this case.

26 (7) Counsel failed to interpose appropriate objections to form a content of
27 question, as well as any objectionable response to those questions. Con't....



CON'T from three of six

(H)

4

1 (C) 9) Counsel failed to make use of the evidence and leadss contain in a
2 prelim hearing argued by petitioner's original public defender.
3 Counsel's inadequacy in preparung & providing a defensive strategy, and
4 failure to understand basic pro^ecedural requirements, his service falls outside
5 the rainge of competency expected of a criminal defense attorney. An attorney
6 does not provide effective assistance if he fails to investigate sources of
7 evidence which may be helpful to the defense. The evidence was said to be
8 Insufficienct argued by original public defender. Concerning Bianca.
9 In genernal, had counsel better Prepared for trial, made an adequate investigation
10 an chose his own defense strategy and tatics the outcome would have been
11 deferent. Defense strategy and tatics which lawyer's of ordinary training
12 and skill in the criminal law would not consider competent deny a criminal
13 defendant the effective assistance of counsel if some other action would have better
14 protected a defendant and was reasonably foreseeable as such before trial"
15 SEE Bealsey v. united states (6th cir 1974) 491 F.2nd p.687 696.
16 Appellant shows prejudice when there is a reasonable probability that but for
17 counsel's omission's the result of the proceeding would have been different.
18 A reasonable probability is a probability sufficient to undermine confidence
19 in the outcome" (Strickland v. washington, supra 466 u.s at pp. 691-692
20 (80 l.ed 2d at pp.695-696. In re sixco 1989 48 cal 3d 1247-1257.
21 Defence counsel must make a rational and informed decision on strategy and
22 tactics founded upon adequate investigation and preparation before making
23 a decision to act or not to act(In re Fields supra 51 cal 3rd at p.1069.
24 People v. ~~Il~~edesma supra 43 cal 3rd at p. 215. In petition^{case} trial counsel could
25 have no tatical reason to refrain from objecting to the criminalist report
26 without scrutinizing the the report, ^{The} nature of tests performed. Counsel stated in
27 a phone conversation on or about 9-16-06 that he did not investigate this
criminalist report.

(15)

1 (10) Failure to prepare for trial.

2 Petitioner argues that counsel MAL VALLY, was not prepare to proceed to trail
3 and was unable to Adequately represent ^{him} during the trial proceeding.

4 Thus depriving petitioner of a right to effective assistance and a fair trial.

5 Petitioner Acknowledge that trial tactics are usually left to the discretion
6 of trial counsel. In re cudjo supra 20 cal 4th at p. 692.

7 In re Jones, supra 13 cal 4th at p. 565. However, the reasonableness of a
8 tactical decision invites scrutiny as to weather the decision was an informed
9 one this is weather it was preceeded by adequate investigation and preparation.

10 See Inre Viscott supra 14 cal 4th at p.348.

11 See Inre Vargas 83 cal app 4th p. 1125.

12 These issues in addition to petitioner's writ are to be considered also:

13 Issues pretaining to counsel's failure to object ^{ed} to the criminal^s report.

14 failure to object to proscution misconduct , and failure to object to
15 false testimony, doe;s not preclude the appellate court from considering these

16 Issues raised in petitioner's case. The court retains discretion to reach
17 an error even in the absense of an ojection. People v. williams (1998)

18 17 cal.4th 148,161,162, People v. Abbaszadeh (2003) 106 cal app. 4th 642,648,

19 649. The fact that a party by failing to raise an issue, may forfeit the right
20 to raise the issue on appeal doe's not mean that any appellate court is precluded

21 from considering the Issue. Id. at p.69 quoting 6 Witkin & Epstein, cal criminal
22 law, (3rd ed 2000) Reversible Error, § 36,p.497; see also pen code § 1469)

23 (Original emphasis).A reviewing court may elect to exercise its discretion
24 where " the shocking nature of the error/ renders/ the trial unfair.

25 People v. Abbaszadeh, supra. 106 cal.app 4th at p.648.

26

27



1 Counsel's incompetency in regard to Officer's RUBACALVA and Officer Curry
2 testimony was so complete that when the state prosecutor, and the co-defendant's
3 Attorney motion to strike the testimony of Officer RUBACALVA, counsel failed to
4 motion to strike the officer's testimony, object, or question this officer
5 regarding his line of testimony which was critical against his client.

6 (EFFECTIVE)- Counsel required by Due Process is not errorless counsel; rather
7 it is Counsel "reasonably likely to render, and rendering reasonably effective
8 assistance, SEE. MACKENNA V. ELLIS 5th cir 1960) 280 f.2d 592,599, modified
9 289 F.2d 928. SEE. BRUBAKER V. DICKSON (9th cir 1962) 310 F.2d 30,37.

10 SEE. People v. MCDOWELL (1968) 69 cal. 2d 737, 748. IN RE WILLIAMS (1969)
11 1 cal, 3d 168,176, however, deferential scrutiny does not mean that counsel's
12 performance is insulated from meaningful scrutiny. (IN RE FIELDS, supra,
13 51 cal 3d at p. 1070. SEE also People V. KARIS (1988) 46 cal 3d 612,621.

14 A review of Fifth circuit law indicates that this court's methodology
15 involves an inquiry into the actual performance of counsel in conducting
16 the defence, and a determination whether reasonably effective assistance
17 was rendered based on the totality of the circumstances and the entire
18 record. US V AUTEN 632 F.2d 482.

19 The right to reasonably competent counsel imposes a correlative duty on defence
20 counsel to undertake reasonable steps to investigate all avenues of
21 defence. SEE. WOOD V. ZAHRADNICK P.980,982 (4th cir 1978). This principle
22 is so fundamental that the failure to conduct a reasonable pretrial
23 investigation may itself amount to ineffective assistance of counsel.

24 SEE. MCQUEEN V. SWENSON, 498 f.2d p. 207,217 (8th cir 1974).

25 Effective investigation by counsel has an important bearing on competent
26 representation at trial. For without adequate investigation, counsel is not
27 in position to make the best use of such mechanisms as cross-examination or
impeachment of adverse witnesses at trial.



CON'T FROM THREE OF SIX

Counsel's stipulation with the prosecution, without Investigating the facts in the report is indeed ineffective assistance. Failure to Investigate; Which render the trial unfair. Who is there to say whether the criminalist report recorded simply the objective results of a routine test or whether it was dependent upon some subjective evaluation. Thus issue breaks the consistent chain of events. Counsel's failure to challenge the prosecution and his witness to prove the elements above in question is prejudice, and it proves that counsel was ineffective, and unprepared.

SEE. People v. Scheid (1997) 16 Cal 4th 1, 17, 65 Cr 2d 348

(11) Counsel failed to prepare his clients defence competently under the most tolerant standard of evaluation. SEE. ADAMS V. BALKCOM 688 F.2d at 740.

(12) Counsel was ineffective by failing to Adequately prepare for trial and consequently in conducting trial. SEE. US V. ROBERT E. TUCKER FED REPORTER, 2d series 716.

MAL VALLY, Attorney in this case was not prepared, his decision to proceed was influenced by co-defendants attorney. Counsel stated before trial that he wish to waive more time, he wasn't ready to proceed. Co-defendant counsel stated she was ready to proceed, and that the issue between them; both Attorneys may create a conflict. Petition was influenced by both attorneys to trial the case without a jury deciding the facts.

Concerning Stipulation: An offer to stipulate to an element of a crime or an Affirmative defence by a party does not necessarily preclude the party with the burden from presenting evidence of facts that prove the element in question. (SEE) People v. SCHEID 1997 16 Cal 4th 1, 17, 65 Cr 2d 348.

SEE. People v. ARIES (1996) 13 Cal 4th 92, 131, 51 CR 2d 770.

SEE. Samuel Winship 397 US 358 LED 2d 368 7. Constitutional Law 840.3

DUE PROCESS, Criminal conviction-Reasonable-doubt standard. The Due process clause protects an accused against conviction except upon every fact necessary to constitute the crime with which petitioner is charged.



(8)

1 Petitioner do believe as an opinion; Counsel's stipulation was made to save
2 time, and was a abandonment at a critical stage during the trial proceeding
3 (13) Counsel failed to prepare any questions in regard to this expert from
4 the Los Angeles police department. Counsel stated to petitioner ^{er} that he had
5 more serious "cases to attend.

6 Petitioner ^{er} would like to state for the record in this writ: The decision
7 to trail the case by judge "was ineffective assistance" fore the judge stated
8 to both attorneys that they "would not win" there case. I petitioner explained
9 these statments to my attorney who convenience ~~me~~ that the judge would be fair,
10 but later around 6-21-06 during the middle of the trial proceeding counsel
11 stated before trial ended, that the judge was "going to find this petitioner
12 guilty. petitioner ^s opinion is that counsel because of his age 92" lacked
13 confidence in his ability to Trial the case by judge or jury.
14 Certain defence strategies may be so ill" chosing as to render counsel's
15 overall representation constitutionally defective. U.S CONST AMENDMENT 6.
16 SEE. ADAMS V. BALKOM F.2d 734 (1982).

17 Reviewing courts should avoid second-guessing counsel's informed choices
18 among tactical alternatives but a defense attorney's freedom to make such
19 decisions is not without limits". (PEOPLE V. POPE, 1979) 23 cal 3d 412, 425,
20 Every person Accused of a criminal offence is entitled to Constitutionally
21 Adequate legal assistance. (Ibid).

22 Defence strategy and tactics which lawyer's of ordinary training and skill in
23 the criminal law would not consider competent deny a criminal defendant the
24 effective assistance of counsel if some other action would have better
25 protected a defendant and was reasonable foreseeable as such before trial"
26 SEE. BEALSEY V. UNITED STATES (6th cir 1974) 491 F.2d 687 696.

27 PETITIONER WOULD LIKE TO STATE: FOR ALL THEE ABOVE OMISSIONS PETITIONER WAS
DENIED ADQUATE EFFECTIVE ASSISTANCE OF COUNSEL, REQUIRED BY DUE PROCESS AMEND
6th.



1 This petitioner would like to state for the record ~~in~~^{at} this writ.
2 Co-defendant's attorney made objections while petitioner counsel attempted
3 to cross-examine the prosecutions witnesses. Those objection were made an
4 directed toward petitioners attorney. Thus interfering with petitioners counsel
5 tactics, and strategy. SEE. STICKLAND V. WASHINGTON, P.676 80 LED 2d
6 Criminal Law 46.4- Counsel interference. Government Voilate the right to
7 Effective assistance of counsel when it interferes in certain ways with the
8 abitiy of counsel to make independent decision about how to conduct the defence.
9 SEE.US V. CRONICANTE AT 659 & 25. 80 Led 2d 657 682.

10 The proper standard for judging Attorney performance is that of reasonable
11 effective assistance, considering all the circumstances. p.695 In any ineffective-
12 ness case, a particular decision not to investigate must be directly assessed
13 for reasonableness in all the circumstanceses Applying a heavy measure of
14 deference to counsel's judgments. p. Six Amendment guaranty of Assistance of
15 counsel- ethical & practical limitations. HARRISON P. CHONIC.80 Led 2d p.657
16 at the same time, even when no theory of defense is Available, if the decision
17 to stand trial has been made counsel must hold a prosecution to its heavy burden
18 of proof beyond a reasonable doubt. Criminal law 46.6 Denial of counsel.
19 Inherent unfairness. The presumption that counsel's assistance is essential
20 requires the conclusion that a trial is unfair if the accuse is denied counsel
21 at a critical stage of his trial similarly, if the attorney entirely fails
22 to subject the Prosecution's case to meaningful Adversarial testing then there
23 has been a denial of the Six Amendment right that makes the Adversary process
24 itself presumptively unreliable.
25 Co-defendants attorney interfered with petitioner's counsel during jury
26 Introduction before the dicision to trial the case by judge, and during the
27 trail proceeding which voilates the right to effective assistance of counsel.



1 FOR THE FOREGOING REASON'S PETITIONER REQUESTS THAT HIS CONVICTION BE
2 SET ASIDE, AND PETITIONER BE GRANTED A NEW TRIAL.
3 HAD PETITIONER BEEN GRANTED EFFECTIVE ASSISTANCE COUNSEL'S DILIGENCE AND
4 ACTIVE PARTICIPATION DUE FROM THE FEDERAL SIX AMENDMENT RIGHT TO COUNSEL
5 THE OUT COME OF THE TRAIL WOULD BEEN DEFFERNT.

6 SIN, PETITIONER,
7 MARIO, WILLIAMS.

8 TRIAL COURT. PA 050223
9 HONORABLE HARVEY GISS, JUDGE PRESIDING.

10
11
12 NOTE: PETITIONER IN THE ABOVE CASE WAS NOT PROVIDED WITH THE COURT TRANSCRIPTS
13 TO PROVE ALL OF THEE ABOVE ARGUEMENTS, AND OMISSION'S SET ABOVE, UPON REQUEST
14 FROM APPELLANT ATTORNEY. JAMES KOSTER (SBN 205826) 3055 wilshare BLVD,
15 TWELFTH FLOOR LOS ANGELES, CA 90010. (213) 388-4952.

16 GROUNDS FOUND SUFFICIENT TO REQUIRE REVERSAL.
17 INEFFECTIVE REPRESENTATION ON APPEAL
18 IN RE BANKS (1971) 4 c3rd 33/, 93 cr 5911

19 FIALURE TO INVESTIGATE ADEQUATELY (PEOPLE V MINOR
(1980 104 ca3d 194 200, 163 cr 501, 504.

20 COUNSELS FAILURE TO RAISE ANY ARGUABLE ISSUES IN APPELLATE
21 BRIEF WAS INEFFECTIVE ASSISTANCE SEE. BANKS V. REYNOLD 54 F.3rd
22 1508 1515-16 (10th cir 1995.

7. Ground 2 or Ground _____ (if applicable):

PETITIONER CLAIM THE EVIDENCE IN THIS

MATTER IS INSUFFICIENT TO SUSTAIN A CONVICTION.

a. Supporting facts:

PETITIONER WOULD LIKE TO STATE FOR THE RECORD THAT THIS CASE WAS

IN NEED OF TESTIMONY REGARDING SCIENTIFIC TECHICAL OR OTHER SPECIALIZED KNOWLEDG
UNDERSTAND

E TO ASSIST THE TRIER OF FACT TO UNDERSTAND THE NATURE OF THIS EVIDENCE.

TO DETERMINE A FACT IN ISSUE. Did this cocaine come from a synthetic nature?

WHAT WAS THE INGREDIENTS FOUND TO DETERMINE THIS FACT? Concerning stipulation

did counsel stipulate to the weight of this matter? Counsel did state at a interv

ew that what ever this officer received may just be baken soda an or bunk.

He also stated that he did not investigate the issues which is his duty as a

attorney at law, later during a phone conversation after petitioner was convicted.

Still the question to what ever it was remain. What percentage and nature of

of this substance was involved? Did this cocaine come from a synthetic nature?

Who validate this testing process ,and where in the record does it show?

Truth to this matter is there is'nt recording of any test performed nor

scientific truth to prove that what ever this was, was scientifically proving

to be cocaine. Therefore, the evidence is Insufficient and unproven.

GENENALLY EVIDENCE PROVING AN ELEMENT OF THE OFFENCE IS ADMISSIBLE EVEN WHERE

THE DEFENCE OFFERS TO STIPULATE TO THE EXISTENCE OF THE ELEMENT. THE DEFENCE CAN

NOT STIPULATE AWAY EVIDENCE BY STIPULATING AWAY ISSUES Ibid. (CONT)

b. Supporting cases, rules, or other authority:

SEE: PEOPLE V. THORNTON SUPRA AT P. 49

SEE: CAL CRIMINAL LAW PROCURE SEVENTH EDITION P.3124

SEE: STATE V. WILLIAMS 388 at 2d 500 (1998)

SEE: UNITED STATES V. WILLIAMS 583 F.2d 1194 2d cir 1978 Evid ST FED P.23

SEE: LEDESM, SUPRA, AT P. 215. SEE: PEOPLE V. SCHEID 1997 16 4th p.1,17,65 CR 2d 348.

SEE: PEOPLE V. GARCEAN 1993 6 4th 140 182 24 CR 2d 664.

Expert Testimony From cal rules of Evidence

If scientific, techical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill experience training, or education, may testify there to in the form of an opinion or otherwise.

When scientific, technical, or other specialized knowledge will be helpfull to the trier in evaluating facts intelligently, the traditional method of supplying data of this nature is the introduction of an opinion of an expert witness.

The opinion of expert must be supported by an adegate foundation of relevant facts, Data, or opinions. Absence of such a foundation requires the striking of the experts opinion as based on conjecture or speculation.

The Fry Test. General Acceptance of Scientific principles.

When a scientific fact is offered as substantive evidence or as forming the base of an expert opinion the reliability of the scientific fact derived from a scientific principle generally depends on the following factor.

- (1) The validity of the under-lying scientific principle.
- (2) The validity of the technique or process that applies the principle.
- (3) The condition of any instrument used un the process.
- (4) Adherence to proper procedures.
- (5) The qualification of the person who performs the test.
- (6) The qualification of the person who interprets the results.

Imposition of the Fry test serves to,

- (1) Insure that a minimal reserve of experts exists who can critically examine the validity of a scientific determination in a particular case,
- (2) Promote a degree of uniformity of decision.
- (3) Avoid the interjection of a time consuming and often misleading determination of the reliability of a scientific technique unto the litigation.
- (4) Assure that scientific evidence introduced will be reliable and thus relevant.
- (5) Provide a preliminary screening to protect against the natural inclination of the jury to assign significant weight to scientific techniques presented under circumstances where the trier of fact is in a poor position to place an accurate evaluation upon reliability.
- (6) Impose a threshold standard of reliability in light of the fact that cross-examination by opposing counsel is unlikely to bring inaccuracies to the attention of the jury.

People v, Kelly Frye(1976) 17 C3rd 24, 30, 130

People v, Jackson (1996 13 C4th 1164 1212

SEE, Expert testimony cal expert witness guide 2nd ED cal 1e 1991 cal criminal pro 31,13.

Con't from 'three of six

During trial proceeding without any objection from counsel, a lab report was admitted into evidence. The superior court of California county of Los Angeles allowed the introduction of a expert report without testimony to authenticate the report violated petitioners right to confrontation under the sixth amendment, also without validating the testing process

SEE people v VERNELL WIGGLEWORTH 49 f,3rd p. 580,581 582 Admissibility of lab report. Discussion p.580 provides in relevant part in all prosecution under the controlled substance Act. Involving controlled substance and its analysis.

(8) Retained counsel was ineffective in failing to adequately prepare for trial and consequently in conducting trial. Counsel's ineffectiveness prejudiced defendants right to effective assistance and a fair trial.

This issue as applied to this case, relieved the state of its burden to prove beyond a reasonable doubt all elements of the crime with which petition was charged. The proper standard for judging an attorney's performance is that of reasonable effective assistance, considering the circumstances.

at the same time, even when no theory of defense is available, if the decision to stand trial has been made, counsel must hold the prosecution to its heavy burden of proof beyond a reasonable doubt.. SEE STICKLAND V. WASHINGTON 80 1.ed 2nd p.674 also see HARRISON P. CHRONIC 80 1.Ed. 2nd 657.

Petition would like to state for the record in this writ;

Counsel's Omission's Incompetence, and failure to provide adequate assistance is probably due to him being at the age of 92 during the time at trial.

Counsel could not have been competent and alert sharp enough to stand trial;

THE TRIAL JUDGE HAS A DUTY TO PROTECT THE DEFENDANTS RIGHT TO A ATTORNEY WHO IS EFFECTIVE. SMITH V. SUPERIOR COURT (1968) 68 cal 2nd 547,559.

Counsel appeared to have problems with his hearing and other medical issues that are unknown to this petitioner. Now deceased.

1 CONT FOUR OF SIX

2 THE EVIDENCE CONCERNING THIS STIPULATION ON PART OF
3 PETITIONER'S TRIAL ATTORNEY, AND THIS CRIMINALIST FROM
4 THE LOS ANGELES POLICE DEPARTMENT, DOE'S VIOLATE THE SIX
5 AMENDMENT CONFRONTATION CLAUSE. PETITIONER DID CLAIM
6 INEFFECTIVE ASSISTANCE ON COUNSEL'S PART.

7
8 CONFRONTATION CLAUSE SIX AMENDMENT: PROVIDES A CRIMINAL DEFENDANT THE
9 RIGHT TO DIRECTLY ENCOUNTER ADVERSE WITNESSES. 35 GEOG L.J ANN
10 REV CRIMINAL PROC. (2006) P. 618

11 WHEN CROSS-EXAMINING A WITNESS, THE DEFENDANT MUST BE PERMITT
12 ED TO TEST BOTH THE WITNESS'S CREDIBILITY AND THE WITNESS
13 KNOWLEDGE OF FACTS BEARING ON THE DEFENDANTS GUILT OR
14 INNOCENCE. SIX AMEND VIOLATION

15 ALSO SEE: PEOPLE V. VERNELL WIGGLEWORTH 49. F .3rd P. 580,
16 581 DISCUSSION ADMISSIBILITY OF THE LAB REPORT.

17
18
19
20
21
22
23
24
25
26
27



CONT FOUR OF SIX

Exhibit 2

CAL CRIMINL LAW PROCEDURE SEVENTH EDITION P. 3124
AN OFFER TO STIPULATE TO AN ELEMENT OF A CRIME OR AN AFFIRMATIVE DEFENCE
BY PARTIES DOES NOT NECESSARILY PRECLUDE THE PARTY WITH THE BURDEN FROM
PRESENTING EVIDENCE OF FACTS THAT PROVE THE ELEMENTS IN QUESTION.

PEOPLE V. SCHEID 1997 16 4th p.1,17,65 CR 2d 348

PEOPLE V. ARIES 1996 13 4th 92, 131 51 CR 2d 770

PEOPLE V. EDELBACCHER 1989 47 3d 983 1007,254 CR 586

CRIMINAL LAW PROFILE AND PRATICE P.11.27 D.EVIDENCE FAVORABLE TO AN ACCUSED
(BRADEY DISCOVERY) DUE PROCESS REQUIRES THE DISCLOSESURE TO THE DEFENDANT
OF EVIDENCE FAVORABLE TO AN ACCUSED THAT IS MATERIAL EITHER TO GUILT OR
TO PUNISHMENT BRADY V. MARYLAND (1963) 373 u.s 83,87 83 S CT 1194, 1196
10 L ED 2d 215,218

IZAZAGA V. SUPERIOR COURT (1991) 54 cal 3rd 356,378 285 CR 231,245
EVIDENCE IS MATERIAL IF IT UNDERMINES CONFIDENCE IN THE OUTCOME, IE
IF IT MAY MAKE THE DIFFERENCE BETWEEN CONVICTION AND ACQUITTAL IF USED
EFFECTIVELY. U.S V. BAGLEY (1985) 473 US 667,676 105 sct 3375 3380,
led 2d 481,490

(11.28 VI POST JUDGMENT DISCOVERY)
THE DUTY OF A PROSECUTOR TO DISCLOSE SUBSTANTIAL MATERIAL EVIDENCE
FAVORABLE TO THE ACCUSED EVEN WITHOUT A REQUEST DOES NOT END WHEN THE
TRIAL IS OVER. PEOPLE V. GARCIA 1993 17 cal 4th 1169,92 CR2d 545.

THE ABOVE CASE LAW IS PERTAINING TO THE NATURE OF THIS SUBSTANCE.
THE QUALIFICATION OF THE PERSON WHO PERFORMS THE TEST.
THE QUALIFICATION OF THE PERSON WHO INTERPRETS THE RESULTS.
ADHERENCE TO PROPER PROCEDURES. INGENERAL THE FRY TEST.

BASED UPON THESE ISSUES,IF THE RECORD DOES NOT SHOW ANY FACTS
REGUARDING THESE ISSUES THE EVIDENCE AGAIN IS INSUFFICIENT
AND THIS MATTER SHOULD BE REVERSED OR REMANDED FOR A NEW TRIAL.

I MARIO, WILLIAMS

DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS
OF CALIFORNIA, THAT THE FORGOING IS TRUE AND CORRECT.

EXECUTED ON

Mario Williams
MARIO, WILLIAMS

7. Ground ~~2~~ or Ground 3 (if applicable):

PETITIONER CLAIMS PROSECUTION MISCONDUCT

a. Supporting facts:

Petitioner only seek to point out the falshood in this intire matter.

Issues pretaining to BIANCA, ALSO KNOWN AS EDNA THOMPCKINS, who in facted was the person who comitted the crime but was released at the seen because she befriended one of the officer's ,and had some kind of deal going on with this officer.

Counsel did investigate this issue. Goverments Error: Why was'nt EDNA,THOMPCKINS Arrested? NOR DID THE PROSECUTION HIMSELF DO ANY INVESTIGATION.TO THE QUESTION.

Issues concerning VALENZUELA, CO - DEFENDANT: Based upon the information from BIANCA,documents with BIANCE'S statements and admittmenting to the crime,testimony made by co- defendants parole officer, and other witnesses VALENZUELA did receive a new trial and was granted a lesser sentence upon appeal, in exchange for a guilty plea. This evdence is and can be classified as substantial material evidence to mean evidence of such significance that with reasonable probability it could effect the out come of the trial. Petitioner did not testifiy do to counsel advise; had this petitioner testified,the out come of the trial would had changed.

In all the prosecution did not prove his case beyond the reasonable doubt standerd.

PETITIONER ACKNOWLEDGES THAT IT IS HARD TO PROVE A LIE OR THAT THESE OFFICERS WERE LIEING. OFFICER SARAGUETA TESTIFIED IN AWAY ONLY TO AVOID ENTRAPMENT.

b. Supporting cases, rules, or other authority:

See: PEOPLE V. COOK (2006) 39 cal 4th 566, 606

See: JAMES,JACKSON V. VIRINA 99 s,ct 2781

DUE PROCESS REQUIRMENTS.

CONT:

p.2

11-12.1

7. Ground ~~2~~ or Ground 3 (if applicable):

PETITIONER CLAIM PROSECUTION MISCONDUCT

a. Supporting facts:

THE STANDARD FOR PROSECUTOR (MISCONDUCT) STATE AND FEDERAL.

Under state standard, conduct by a prosecutor does not render a criminal trial
fundamentally unfair unless "it involves the use of deceptive or reprehensible
method's to attempt to persuade either the court or the jury. Conviction obtained
through use of false testimony known to be such by representative of the state
though not soliciting false evidence allows it to go uncorrected when it appears,
is a denial of DUE PROCESS U.S AMEND CONST 14th AMEND. This falsehood bore upon
the prosecution's witnesses credibility rather than directly upon the petitioner's
guilt.... A lie is a lie no matter what its subject and if it is in anyway
relevant to the case the prosecution has the responsibility and duty to correct
what he knows to be false and elicit the truth.

Petitioner claim the prosecution was aware of the falsehood of this case and
the numerous inconsistencies, for he was in agreement with co-defendant's
attorney to strike the testimony of officer RUBACAVA, and stated in his closing
argument "well we do have some inconsistencies here". Officer RUBACAVA'S and
Officer Curry both testified they saw what appeared to be a solid off white
substance, and later during trial they stated they did not know what they saw.
This is one of the more inconsistencies that proceeded through out the trial.

b. Supporting cases, rules, or other authority:

See: MULTI 2 ARREST REPORT INVESTIGATION.

See: NAPUE V. ILLINOIS S.CT 1173 L.ED 2nd 1217 const Law Due Process of law

See: In Re PRATT (1980) 112 CA 3d 795, 862, 170 CR 80 WRITS IN CAL STATE COURTS.

See: In Re WRIGHT(1978) 78 cal 3d 788, 144 CR 535.

See: PEOPLE V. LEDESMA (2006) 39 cal 4th 641, 681

See: PEOPLE V. ESPINZA (1992) 3 cal 4th 806, 820 See:PEOPLE V. COOK (2006) CONT

ADDITION POINT"S AND ATHORTY"S

11 OF SIX
Ground 3

Deering Penal Cal.

§1473 B-1 2 C. 2. 123-138

Writs Cal 2.119 False Evidence

§ 1473 (A) Every person lawfully imprisoned or restrained of his liberty may prosecute a Writ.

(B) A writ of habeas corpus may be prosecuted for but not limited to the following reason;

(1) False evidence that is substantially Material or probative on the issue of guilt or punishment was introduced against a person at any hearing or trial relating to his incarceration or,

(C) Any allegation that the prosecution knew or should have known of false nature of the evidence, (WRITS IN CAL STATE COURTS)

P.302 2.120 c 1473 (B) Its no longer necessary for petitioner to establish that the prosecution knew or should have known the evidence was false, Pen c 1473 (C) Although discovery of perjured testimony almost always results from discovery of new evidence, it constitutes distinct grounds for habeas corpus relief subject to different legal standards.

INre PRATT (1980) 112 ca 3d 795,862,170 cr 80.

INre wright (1978) 78 cal 3d 788, 144 cr 535.]

Deering's cal codes pen 1321-1538.5

Defendants Fundamental right to hold that effective possibility of appealing conviction was properly taken away because of failure on part of official of trial court, and appeals Attorney to comply with law. PEOPLE V SERRATO (1965) 238 ca 2d 112,47 cal rptr 543. 1404 n 160 E APPEAL P.291.

Neglecting to prepare Transcripts

Denied effective presentation of appeal.

Grounds (3)

CON'T FOUR OF SIX

1 Petitioner claim if co-defendant VALENZUEL, received a new trial
2 base upon evidence from witnesses if these documents and out of court
3 statments did have an effect upon this case. All evidence should apply
4 to petitioner also. This case was corrupt by the goverments official
5 the evidence; the police report is falsified. Base Upon this overall case
6 pætitioner ask that the HONORABLE HARVEY GISS, GUDGE PRESIDING,
7 reconsider his verdict and remand the case for a new trial.
8 If the record show all these issues are true, than this matter
9 should be reversed. Petitioner pray that the courts reveiw this matter
10 because i am with out the transcripts.

11
12 I MARIO, WILLIAMS

13 DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS
14 OF CALIFORNIA, THAT THE FOREGOING IS TRUE AND CORRECT.

15
16 EXECUTED ON

6/19/07

Mario Williams
MARIO, WILLIAMS

1 A number of courts hold that even stipulation of the parties can
2 not make certain Scientific evidence Admissible.

Ground 2

3 SEE STATE V. WILLIAMS 388 A. 2d 500 (1998).
4 United STATES V. WILLIAMS 583 F. 2d 1194 2d cir 1978 Evid.st fed
5 p.23.

6 Counsels Failure to Investigate.

7 In particular, if the record shows that "counsel has failed to reseach
8 the law or investigate the fact in the manner of a diligent and
9 conscientious advocate the conviction should be reversed since the
10 petitioner has been deprived of Adequate assistance of counsel.
11 SEE LEDESMA, SUPRA, AT P. 215.

12 CAL CRIMINAL LAW PROCEDURE & PRACTICE. FOURTH EDITION.

13 Ground found Sufficient to require Reversal.

14 INEFFECTIVE REPRESENTATION ON APPEAL.

15 IN RE BANKS (1971) 4 c3rd 337, 93 cr 5911.

16 FAILURE TO INVESTIGATE ADEQUATELY (PEOPLE V. MINOR.

17 (1980 104 ca 3d 194 200, 163 cr 501, 504.

18 SEE ATTACHED DOCUMENTATION OF REFERENCE MATERIAL USED TO
19 EXHAUST LEGAL REMEDIES IN THE AFORE MENTIONED CASE DOCUMENTION;
20 AS WELL AS, THE LACK OF IN PROPER REPERSENTION BY BOTH TRIAL
21 & APPEALAT ATTORNEYS THAT HAVE FAILED TO ADEQUATLY PROVIDE
22 LEGAL TRANSCRIPTS & PROPER DOCUMENTATION IN THE AFORE MENTIONE
23 D CASE.

INSUFFICIENCT EVIDENCE

24 SEE: PEOPLE V. MARVIN LEE ADAMS 220 cal app 3rd 680 269 cal RPTR
25 479 MAY 8 1990)

26 SEE: PEOPLE V. VERNELL WIGGLEWORTH 49. F3rd p. 580,581

27 DISCUSSION ABMISSIBILITY OF THE LAB REPORT.

THE COURT: WE CANNOT DECIDE THIS QUESTION BECAUSE WE CANT TELL FROM
THE RECORD BEFORE USE WHAT TEST WAS PERFORMED TO DETERMINE THE PRESENC
E OF COCAINE IN THE SAMPLE NOR DO WE KNOW WHEATHER THE REPORT RECORDED
SIMPLY THE OBJECTIVE RESULTS OF A ROUTINE TEST OR DEPENDENT UPON
SOME SUJECTIVE EVALUATION. CONSTITUTIONAL LAW CRIMINAL LAW 307.

ADDITIONAL POINTS IN LAW

CONT P. FOUR OF SIX

TO THE COURT IN REVEIING THIS MATTER
PETITIONER IN THIS FORGOING MATTER HAS BEEN DEPRIVED THE FUNDAMENTAL
RIGHT TO HOLD THAT EFFECTIVE POSSIBILITY OF APPEALING CONVICTION
WAS TAKEN AWAY BECAUSE OF FAILURE ON PART OF OFFICIAL OF COURT CLERK
TO COMPLY WITH LAW. FAILURING TO PROVIDE COURT TRANSCRIPTS AND OTHER
DOCUMENTS.

SEE:PEOPLE V. SERRATO (1965) 238 cal 2nd 112,47 cal RPTR 543

ALSO: THE COURTS DENYING THIS WRIT OF HABEAS CORPUS
THE REASON FOR DENYAL IS UNAVAILABLE PETITIONER CAN NOT RESPOND.

I MARIO, WILLIAMS

DECLARE UNDER PENALTY OF PERJURY, UNDER THE
LAWS OF THE STATE OF CALIFORNIA, THAT THE FOREGOING
IS TRUE AND CORRECT.

EXECUTE^D ON

6/19/07
Mario, Williams

MARIO, WILLIAMS



1 MARIO, WILLIAMS
2 P.O BOX 7500 CRESENT CITY,
3 CA 95532 P.B.S.P M-F 2 117low

12/24/07
12/27/07

4
5 IN PROPRIA PERSONA

6

7

Ninth Circuit Court of Appeals

8

IN AND FOR THE COUNTY OF San Francisco, CA

9

10 MARIO, WILLIAMS DEFENDENDANT)

No. 07-80213

11)

MOTION FOR APPOINTMENT OF COUNSEL

12)

VS.

13)

v.

14)

ROBERT A, HOREL

15)

WARDEN

16)

17 DEFENDANT, Mario, Williams, moves in this court for an
18 order appointing legal counsel, attorney-at-law, a member of the California Bar,
19 to represent Defendant because he cannot afford to employ an attorney. This
20 motion is based upon Defendant's affidavit in support of his motion for leave
21 to proceed in forma pauperis and for appointment of counsel.

22 There is good cause submitted in Defendant's petition before the court for
23 relief he seeks with the appointment of a legal attorney to grant the petition
24 with appointment of counsel as Defendant is only a layman in law.

25

26 DATED: 12/19/07

Mario, Williams

27

DEFENDANT IN PROPRIA PERSONA

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

In re MARIO WILLIAMS,)	Case No. PA050223
)	
Petitioner,)	ORDER DENYING
)	WRIT OF
)	HABEAS CORPUS
)	
On Habeas Corpus.)	
_____)	

The court has read and considered the petition for writ of habeas corpus filed on January 25, 2007. The thrust of petitioner's claim is that he received ineffective assistance of counsel. For the reasons stated below, the petition is denied.

This was not a complicated case. According to the testimony, the case arose from a Los Angeles Police Department narcotics sting operation in December 2004. L.A.P.D. officer Saragueta, who was working in street clothes, approached petitioner and asked for a "hook-up," street vernacular for a narcotics purchase. After determining that the officer wanted twenty dollars worth of cocaine, petitioner led the officer to another location where he pointed to two people (one of whom was the co-defendant). Petitioner told the officer, "I'm going to go get it from them," and requested the twenty dollars from the officer. Petitioner took the money, made contact with the co-defendant, returned to Saragueta, and handed him several items resembling rock cocaine. The transaction was observed by undercover officers Rubalcava and Curry. Petitioner was arrested and charged with violating Health and Safety Code section 11352(a).

The parties waived jury and the case was tried by the court in June 2005. Saragueta, Rubalcava and Curry testified as prosecution witnesses. The parties stipulated that the substance Saragueta received from petitioner was analyzed by an L.A.P.D. criminalist and was determined to be cocaine base. Petitioner did not testify and did not call any witnesses. The court found petitioner and the co-defendant guilty of selling cocaine, in violation of Health and Safety Code section 11352 (a). The court also found

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 977(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 977(b). This opinion has not been certified for publication or ordered published for purposes of rule 977.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION SEVEN

THE PEOPLE,

Plaintiff and Respondent,

v.

MARIO WILLIAMS,

Defendant and Appellant.

B184335

(Los Angeles County
Super. Ct. No. PA050223)

COURT OF APPEAL - SECOND DIST.

FILED

JAN 30 2006

JOSEPH A. LANE

Clerk

Deputy Clerk

APPEAL from a judgment of the Superior Court of Los Angeles County.

Harvey Giss, Judge. Affirmed.

James Koester, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

COURT OF APPEAL - SECOND DIST.

DIVISION SEVEN

FILED

MAY 31 2007

In re

B199335

JOSEPH A. LANE

Clerk

F. MOUNTBROOK

Paralegal Clerk

MARIO WILLIAMS

(Super. Ct. No. PA050223)

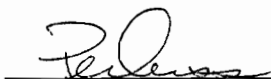
(Harvey Giss, Judge)

on Habeas Corpus.

ORDER

THE COURT*:

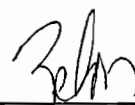
The petition for writ of habeas corpus filed herein May 29, 2007 has been read and considered. The petition is denied.



*PERLUSS, P.J.,



WOODS, J.,



ZELTON, J.

S153768

IN THE SUPREME COURT OF CALIFORNIA

En Banc

In re MARIO WILLIAMS on Habeas Corpus

The petition for writ of habeas corpus is denied.

SUPREME COURT
FILED

NOV 28 2007

Frederick K. Ohlrich Clerk

Deputy

GEORGE

Chief Justice

MINUTE ORDER
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

DATE PRINTED: 11/08/06

CASE NO. PA050223

THE PEOPLE OF THE STATE OF CALIFORNIA
VS.
DEFENDANT 01: MARIO WILLIAMS

INFORMATION FILED ON 02/08/05.

COUNT 01: 11352(A) H&S FEL - SELL/TRANSPRT CONTRL SUBSTANCE.

ON 11/08/06 AT 830 AM IN NORTH VALLEY DISTRICT DEPT NVI

CASE CALLED FOR MOTION

THIS IS A SECOND STRIKE CASE.

PARTIES: HARVEY GISS (JUDGE) JENNIFER E. JACKSON (CLERK)
NONE (REP) NONE (DDA)

DEFENDANT IS NOT PRESENT IN COURT, AND NOT REPRESENTED BY COUNSEL

THE MOTION FOR "PRODUCTION OF TRANSCRIPTS AND DOCUMENTS" IS
DENIED. THE MOVING PARTY HAD APPELLATE COUNSEL AND CAN SEEK
"TRANSCRIPTS AND DOCUMENTS" FROM APPELLATE COUNSEL. SAID
"TRANSCRIPTS AND DOCUMENTS" WERE EMPLOYED TO ARGUE THE MOVING
PARTY'S UNSUCCESSFUL APPEAL BEFORE THE SECOND APPELLATE

DISTRICT, DIVISION SEVEN.

A TRUE COPY OF THIS MINUTE ORDER IS SENT VIA U.S. MAIL
ADDRESSED AS FOLLOWS:

MARIO WILLIAMS
J-98382 DORM SD-4716-U
SUSANVILLE, CA 96127-2400

NEXT SCHEDULED EVENT:
PROCEEDINGS TERMINATED

PELICAN BAY STATE PRISON
P.O. BOX 7500
CRESCENT CITY CA. 95532-7500

RE: REQUEST FOR DOCUMENTS

I am writing to request the following documentation needed in seeking extraordinary writ relief via petition for writ of habeas corpus. Thus, complying with the prerequisites of requesting the following documentation informally, before seeking a court order, and or enforcement of this request by the California State Bar Association. Under Rules of Professional conduct Rule 3-700(D); Under California Rules of Criminal Discovery; California Penal Code section(s) 1054.5 and 1054.3(a) through (b), and 1054.6; and in Evidence Code section 911(b)(c); Code of Civil Procedure section 2017(a), 2018 (a) through (f); 2031.

THE FOLLOWING DOCUMENTATION IS REQUESTED:

1. Private investigators reports, all reports submitted by investigator assigned to investigate case.
2. Documentation, instructions to private investigator as to what trial counsel instructed investigator to do, or what lead to follow.
3. Names of people who were contacted by investigator as possible defense witnesses. Reports of those conversations and dates contacted.
4. Notes written by trial counsel when interviewing defendant at the county jail.
5. Any and all work product, documents pertaining to case: trial file, including preliminary hearing transcripts.
6. Pretrial discovery such as finger print findings, and reports, and any other discovery presented to the defense.
7. Any and all transcribed recorded statements turned over to the trial attorney.

The investigative files and reports are necessary documents essential to my preparation and prosecution of a writ of habeas corpus. Please provide a copy of all the files and reports which I have requested or an explanation for your failure to do so within (15) working days of the date on which you receive this request. Please forward the requested documents to the following address.

MAILING ADDRESS

PELICAN BAY STATE PRISON
P.O. BOX 7500
CRESCENT CITY CA. 95532

Respectfully,

Marin Williams

NOTE: If your attorney fails to answer within (15) days file a complaint with the State Bar of California, because you are entitled to these documents under Rule 3-700(D) rules of professional conduct.

MAIL COMPLAINT TO:

OFFICE OF THE CHIEF TRIAL COUNSEL/INTAKE
STATE BAR OF CALIFORNIA
1149 SOUTH HILL st
LOS ANGELES CALIFORNIA 90015-2299

OR

180 HOWARD st
SAN FRANCISCO CALIFORNIA 94105-1639

OR

1201 K STREET ste #720
SACRAMENTO CA. 95814

September 27th, 2006


Mario Williams J-98382
California Correctional Center
P.O. Box 2400 SD-4710-U
Susanville, California
96127-2400

Law Office of Simons & Koester
ATTN: Mr. James Koester, ESQ.
3055 Wilshire Blvd. 12th Floor
Los Angeles, California
90010

RE: Appeal No: B-18435
Trial Court: PA-050223

Dear Mr. Koester,

This is a request for the case file, and work product generated from the trial attorney, Mr. Mel la valley. I am in need of the case file to raise an issue that is outside the apelate record. Please give priority to this request due to a limited time frame. This is my second request attempt to get this information. I thank you for your attention to this letter and your most anticipated cooperation on this matter.

 truly yours,

Mario Williams

Page 2 8	MULTI 2 ARREST	Bkg# See Below	DR# 04-1739467
-------------	----------------	----------------	----------------

SUSPECT 1: WILLIAMS, MARIO CHARGE: 182PC/11352 H&S BKG: 8387973

SUSPECT 2: VALENZUELA, OSCAR CHARGE: 182PC/11352H&S BKG: 8387939

NARCOTICS DIVISION BUY TEAM

Detective II Mossman #24281

Detective II Kanchanamongkol #30772

Officer Barillas #34841

Officer DeRosier #35209

Officer Saragueta #32806

Officer Curry #34967

Officer Rubalcava #35327

Officer Diaz #27680

Officer Zavala #33760

Officer Suviata #35376

Officer Vizcarra #33291

DEVONSHIRE OFFICERS

Sgt. Kessler #25418

Officer Verna #35247

Officer Clymer #35204

Officer Riggs #35174

Officer Pikor #35384

Officer Sawada #35525*

Officer Vega #34248

Officer Emerick #31560

Officer Ruvalcaba #35949

SOURCE OF ACTIVITY

On 12-15-04 at approximately 2050 hours, I Officer Saragueta #32806 was in plain clothes working a buy-bust task force in conjunction with the Devonshire Gang Unit. I was wearing a one-way wire transmitter for officer safety.

Detective II Mossman and Detective II Kanchanamongkol were monitoring the wire during this buy-bust operation.

INVESTIGATION

I went to the northwest corner of Columbus and Parthenia. I met with a male Black later identified as Suspect 1 Williams. I asked him "Do you have the hook up?" (Referring to selling narcotics) Suspect 1 Williams asked me "What do you want?" I told him I wanted a "twenty." (Referring to \$20 worth of rock cocaine.) Suspect Williams stated, "Let's go," and we walked north. Suspect Williams asked me if I knew the people ahead of us and I told him "no." I observed a female Black and a male Hispanic in front of us. Suspect 1 Williams asked me for my money and told me he was going to get my twenty from them. I gave Suspect Williams a prerecorded \$20 bill and he told me to wait because they do not know me. Suspect 1 Williams walked north and met with the male Hispanic later identified as Suspect 2 Valenzuela. I later spoke to Officer Curry and Officer Rubalcava who stated they observed Suspect 2 Valenzuela hand Suspect

Page 3 96	MULTI 2 ARREST	Bkg# See Below	DR# 04-1739467
--------------	----------------	----------------	----------------

1 Williams several small solids resembling rock cocaine. Suspect 1 Williams then walked away south towards me. Officer Rubalcava walked by Suspect 2 Valenzuela after the exchange and observed him holding an off white solid resembling rock cocaine in his open right palm.

Suspect 1 Williams walked directly to me and handed me several small off white solids resembling rock cocaine (Item 1). I accepted Item 1 and walked away notifying my partners of the narcotics transaction between Suspect 1 and 2 and myself.

I later spoke to Officer Suviate, Officer Zavala, Officer Barillas who told me they observed the narcotics transaction between Suspect 1 Williams and myself. Officer Vizcarra directed uniformed Officers to arrest Suspect 1 Williams. Officer Rubalcava directed uniformed Officers to Suspect 2 Valenzuela.

Officers Riggs and Pikor arrested Suspect 1 Williams in front of 8919 Columbus. Officers Sawada and Emerick arrested Suspect 2 Valenzuela also in front of 8919 Columbus. Officer Riggs recovered a cocaine pipe (Item 2) from Suspect Williams' right shoe. Officer Sawada recovered a \$20 bill from Suspect 2 Valenzuela's left lower jacket pocket. Detective Kanchanamongkol verified the \$20 bill to be the same prerecorded \$20 bill I gave to Suspect 1 Williams.

Officers never lost sight of either Suspect, nor did the Suspects meet with any other individuals. (other than myself) Based on my training and experience and the above-described interaction with both Suspects, I formed the opinion that both Suspects were working in concert to sell rock cocaine.

I positively identified both Suspects at the scene of arrest.

ARREST

Both Suspects were arrested for 182 PC/11352 H&S Conspiracy to Sell Rock Cocaine.

INJURY AND MEDICAL TREATMENT

Not Applicable.

BOOKING

Both Suspects were booked on the above charge on the advice of Detective Kanchanamongkol and the approval of Sgt. Majorie #21865 at Devonshire Jail.

EVIDENCE

All evidence was booked by myself. See Property Report.

ADDITIONAL

Both Suspects are currently on active parole.

COURT INFORMATION

Detective II Mossman and Detective II Kanchanamongkol were monitoring the wire during this buy-bust operation.

SUPERIOR COURT OF CALIFORNIA, COUNTY OF: LOS ANGELES, NORTH VALLEY DISTRICT			
PEOPLE OF THE STATE OF CALIFORNIA vs. DEFENDANT: WILLIAMS, MARIO		DOB: 08-11-61	CASE NUMBER PA050223-01
AKA: CII#: A05759066 BOOKING #: 8387973		<input type="checkbox"/> NOT PRESENT	
COMMITMENT TO STATE PRISON ABSTRACT OF JUDGMENT		12-16-05	<input checked="" type="checkbox"/> AMENDED ABSTRACT
DATE OF HEARING 06-22-05	DEPT. NO. NV-1	JUDGE HARVEY GISS	
CLERK A. ARBUCKLE	REPORTER E. SMITH	PROBATION NO. OR PROBATION OFFICER X-063556	
COUNSEL FOR PEOPLE B. CHAN CHEN DA		COUNSEL FOR DEFENDANT M. LA VALLEY BAR PANEL ATTY <input type="checkbox"/> APPTD.	

1. Defendant was convicted of the commission of the following felony:

CNT.	CODE	SECTION NUMBER	CRIME	YEAR CRIME COMMITTED	DATE OF CONVICTION (MO./DATE/YEAR)	CONVICTED BY	TERM (L, M, U)	TIME IMPOSED
1	HS	11352(A)	SELL/TRANSPRT CONTRL SUBSTANCE	04	06-22-05	X	M	4 YRS 0 MOS.

2. ENHANCEMENTS charged and found to be true TIED TO SPECIFIC COUNTS (mainly in the PC 12022 series). List each count enhancement horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

CNT.	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL

3. ENHANCEMENTS charged and found to be true FOR PRIOR CONVICTIONS OR PRISON TERMS (mainly in the PC.667 series). List all enhancements horizontally. Enter time imposed for each or "S" for stayed. DO NOT LIST ANY STRICKEN ENHANCEMENT(S).

ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	ENHANCEMENT	Y/S	TOTAL
11370.2(A) HS	3	667.5(B) PC	1	667.5(B) PC	1	667.5(B) PC	S	5 0

4. ☐ Defendant was sentenced pursuant to PC 667 (b)-(i) or PC 1170.12 (two-strikes).

5. FINANCIAL OBLIGATIONS (including any applicable penalty assessments):

Restitution Fine(s): **\$1200** per PC 1202.4(b) forthwith per PC 2085.5; **\$1200** per PC 1202.45 suspended unless parole is revoked.

Restitution per PC 1202.4(f): ☐ \$ / ☐ Amount to be determined to ☐ victim(s)* ☐ Restitution Fund
(*List victim name(s) if known and amount breakdown in item 7 below.)

Fine(s): \$ per PC 1202.5. \$ per VC 23550 or days ☐ county jail ☐ prison in lieu of fine ☐ CC ☐ CS

Lab Fee: **\$50** per HS 11372.5(a) for counts **1**. ☐ Drug Program Fee of \$150 per HS 11372.7(a).

6. TESTING: a. ☐ AIDS pursuant to PC 1202.1 b. ☐ DNA pursuant to PC 296 c. ☐ other (specify):

7. Other orders (specify): **PAY \$20.00 COURT SECURITY ASSESSMENT (PER 1465.8(A)(1) P.C.). PLUS \$85.00 PER 1464 PC & 76000 GOVT. CODE. COURT ORDERS DEF. PROVIDE 2 SPECIMENS OF BLOOD, SALIVA SAMPLE, RIGHT THUMBPRINT & FULL PALM PRINT IMPRESSION EACH HAND FOR LAW I.D. ANALYSIS. REG. AS CONVICTED NARCOTICS OFFENDER, CARRY PROOF OF REG. ALL TIMES, DISPLAY REG. TO ANY LAW OFFCR.**

8. TOTAL TIME IMPOSED EXCLUDING COUNTY JAIL TERM: **9** , **0**

9. ☐ This sentence is to run concurrent with (specify):

10. Execution of sentence imposed

- a. ☒ at initial sentencing hearing. ✓
b. ☐ at resentencing per decision on appeal.
c. ☐ after revocation of probation.
d. ☐ at resentencing per recall of commitment. (PC 1170(d).)
e. ☐ other (specify):

11. DATE SENTENCE PRONOUNCED 06-22-05	CREDIT FOR TIME SPENT IN CUSTODY	TOTAL DAYS: 284 INCLUDING:	ACTUAL LOCAL TIME 190	LOCAL CONDUCT CREDITS 94 /	<input type="checkbox"/> 4019 <input type="checkbox"/> 2933.1	TIME SERVED IN STATE INSTITUTION:	DMH	CDC	CRC
---	----------------------------------	-----------------------------------	------------------------------	-----------------------------------	--	-----------------------------------	-----	-----	-----

12. The defendant is remanded to the custody of the sheriff ☒ forthwith ☒ after 48 hours excluding Saturdays, Sundays, and holidays.
To be delivered to ☒ the reception center designated by the director of the California Department of Corrections.
☐ other (specify):

CLERK OF THE COURT: I hereby certify the foregoing to be a correct abstract of the judgment made in this case.

DEPUTY'S SIGNATURE M. LAGUNAS	DATE
---	------

This form is prescribed under PC 1213.5 to satisfy the requirements of PC 1213 for determinate sentences. Attachments must be referred to in this document.

MARIO WILLIAMS J-98382

P.O. BOX 7500 CRESCENT CITY, CA

95532 P.B.S.P. MF2-117Low

Ninth Circuit Court Of Appeals

U.S. Court Of Appeals Building

95 7th Street,

P.O. Box 193939

In Re: Mario Williams)

San Francisco, CA 94119

vs.)

Robert, A, Horel Warden)

No. S153768

MOTION FOR REVEIW

In this case, I the Petitioner in the matter set before this Honorable Court has exhausted all State remedies, therefore, Petitioner pray that this Honorable Court who oversees this matter will subpoena all available transcripts for review of the issues raised in petitioners writ.

I Petitioner contend that I did recieve ineffective assistance of trial counsel. In violation of the Sixth Ammendment and other issues which pertain to prosecution misconduct, falsified evidence in violation of the Fourteenth Ammendment. The Petitioner also contends that the evidence concerning the substance is insufficent and should not sustain the conviction.

SEE: Highlighted Leading Cases In The Writ Refering To This Matter.

If I may, I would like to ask the Honorable Court to supply Petitioner with an Attorney to assist me with this matter for I have only limited supply of legal material and knowledge of the law.

Date 12/19/07

Sincerely
Mario Williams

CONCLUSION

In conclusion to this motion, I Petitioner would like to contend if any issues raised in this matter are found to be true, upon the Honorable Courts Review, that Petitioner be granted relief in the Interest Of Justice. For the Petitioner was denied legal transcripts from the courts upon a motion file requesting transcripts from the County Clerk in Los Angeles County.

SEE: Attach Documents Denying Petitioner Legal Transcripts.

This issue enabled Petitioner to adequately prepare this writ for the courts.

SEE: Available Case Law Concerning The Issue In The Writ.

I Petitioner do contend under the penalty of perjury that these issues raised are the exact issues raised in all State Courts and that this is a true copy of the writ filed to The Supreme Court Of California.

Sincerely,

Mario Williams

Date: 12/19/07

12/19/07
DATEWho to Name as Respondent

You must name the person in whose actual custody you are. This usually means the Warden or jailor. Do not name the State of California, a city, a county or the superior court of the county in which you are imprisoned or by whom you were convicted and sentenced. These are not proper respondents.

If you are not presently in custody pursuant to the state judgment against which you seek relief but may be subject to such custody in the future (e.g., detainees), you must name the person in whose custody you are now and the Attorney General of the state in which the judgment you seek to attack was entered.

A. INFORMATION ABOUT YOUR CONVICTION AND SENTENCE

1. What sentence are you challenging in this petition?

(a) Name and location of court that imposed sentence (for example; Alameda County Superior Court, Oakland):

SUPERIOR COURT LOS ANGELES

Court

SANFERNANDO COUNTY

Location

(b) Case number, if known PA050223

(c) Date and terms of sentence 6-22-05 9 Years

(d) Are you now in custody serving this term? (Custody means being in jail, on parole or probation, etc.) ☒ Yes ☐ No

Where? Pelican Bay State Prison P.O BOX 7500 Cresent City, CA 95532

(Name of Institution)

(Address)

2. For what crime were you given this sentence? (If your petition challenges a sentence for more than one crime, list each crime separately using Penal Code numbers if known. If you are challenging more than one sentence, you should file a different petition for each sentence.)

CNT 1 HS SEC 11352 (A) SELL TRANSPRT CONRL SUBSTANCE

3. Did you have any of the following?

Arraignment: Yes ☒ No ☐ Preliminary Hearing: Yes ☒ No ☐ Motion to Suppress: Yes ☒ No ☐

12/19/07
Date

4. How did you plead?

Guilty _____ Not Guilty X Nolo Contendere _____Any other plea (specify) NONE

5. If you went to trial, what kind of trial did you have?

Jury _____ Judge alone X Judge alone on a transcript _____6. Did you testify at your trial? Yes ___ No X

7. Did you have an attorney at the following proceedings:

- (a) Arraignment Yes X No _____
- (b) Preliminary hearing Yes No _____
- (c) Time of plea Yes _____ No _____
- (d) Trial Yes X No _____
- (e) Sentencing Yes X No _____
- (f) Appeal Yes No _____
- (g) Other post-conviction proceeding Yes _____ No _____

8. Did you appeal your conviction? Yes X No _____

(a) If you did, to what court(s) did you appeal?

Court of Appeal	Yes <u>X</u>	No _____	2007	DENIED
			(Year)	(Result)
Supreme Court of California	Yes <u>X</u>	No _____	2007	DENIED
			(Year)	(Result)
Any other court	Yes <u>X</u>	<u>No</u>	@2007	DENIED
			(Year)	(Result)

(b) If you appealed, were the grounds the same as those that you are raising in this petition? Yes X No _____

(c) Was there an opinion? Yes _____ No _____

(d) Did you seek permission to file a late appeal under Rule 31(a)?

Yes _____ No